

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

CIVIL NO. 2:09CV18

ALBERT SPANGLER,)	
)	
Plaintiff,)	
)	
Vs.)	<u>O R D E R</u>
)	
LYNN DEMSHOCK; AUTOMATIC)	
DATA PROCESSING; MARY)	
HANNAH; and the INTERNAL)	
REVENUE SERVICE,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed May 20, 2009.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Magistrate Judge was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On May 20, 2009, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding the motion of

Defendants Demshock, Hannah and Automatic Data Processing to dismiss. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 10 days of service of the Recommendation; the period within which to file objections expired on June 8, 2009. No written objections to the Memorandum and Recommendation have been filed.¹

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the motion to dismiss be allowed.

IT IS, THEREFORE, ORDERED that the motion to dismiss is **ALLOWED**, and Plaintiff's claims as to the Defendants Demshock,

¹ Defendant Automated Data Processing, Inc., filed response to the Memorandum and Recommendation and the Magistrate Judge's directive therein by providing the corporate Defendant's current mailing address and name of an officer, director or managing agent at that place of business, and stating that the corporate Defendant does not do business in North Carolina and has no registered agent in this State. **See Response of Defendant Automatic Data Processing, filed May 22, 2009; Memorandum and Recommendation, *supra*, at 7.**

Hannah, and Automatic Data Processing are hereby **DISMISSED**
WITHOUT PREJUDICE.

Signed: June 12, 2009



Lacy H. Thornburg
United States District Judge

